

REMARKS

Claim Rejections

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,682,423 (Brosnan et al.), U.S. Patent Pub. No. 2001/0041612 A1 (Garahi et al.) and U.S. Patent Publication No. 2003/0036425 A1 (Kaminkow et al.). Claim 9 stands rejected under 35 U.S.C. 103(a) as unpatentable over Brosnan et al., Garahi et al., Kaminkow et al. and U.S. Patent No. 6,110,044 (Stern).

The Cited References

Brosnan et al. discloses a gaming machine network 50. The network 50 includes a community of gaming machines 2, servers 71-74, communication interfaces 52, and a network 60. The network 60 provides digital communication between all the nodes in the network 50. (Col. 6, lines 14-21). The servers 71-74 each provide a separate gaming service for the gaming machines. (Col. 6, lines 37-44).

The gaming machines 2a-2c communicate with the network 60 through communication interfaces 52a-52c. (Col. 7, lines 4-14). A gaming machine interface is located in a gaming machine top box 209 or on a main communication board 210 within a gaming machine cabinet. Alternatively, a gaming machine interface may be mounted to the side of a gaming machine cabinet. (Col. 14, lines 6-15; FIG. 1B).

The servers 71-74 communicate with the network 60 via communication interfaces 52d-52g. The communication interfaces 52d-52g provide data transmission and communication protocol translation services for the servers 71-74. (Col. 6, lines 47-50). Each server may use a different proprietary communication protocol, remote computer, and proprietary network hardware and connection scheme to communicate game information within the gaming machine network 50. A communication interface for each server is then responsible for providing data transmission services for each server onto the common protocol and hardware used on the network 60. (Col. 6, lines 54-61).

The gaming machines and the servers are connected to their respective communication interfaces by a wired game service connection 54. (Col 7, lines 4-6; Col. 8, lines 57-60; Col. 9, lines 19-23; FIG. 1A). The communication interfaces 52a-52c for the gaming machines are connected to the network 60 by network lines 57. The network lines may use a wired, wireless or combination connection scheme. (Col. 10, lines 2-6; col. 16, lines 55-61; FIG. 1A). The

communication interfaces 52d-52g for the servers are in communication with the network 60 via an appropriate communication protocol. (Col. 6, lines 58-66).

Garahi et al. discloses a wagering data hub 12 suitable for use with an interactive wagering system 10. The hub 12 includes a data distribution system 100, a data interface 102, a database 104 and a wireless server 116. (§0042). The hub 12 controls the wagering system 10. The hub 12 is coupled to a television set-top box 14, a user computer 16, a wireless device 18 and a telephone 20. (§0029). The wireless device 18 communicates with the hub 12 via the wireless server 116. (§0046).

Kaminkow et al. is directed to a gaming machine including an input mechanism with a non-physical contact data interface. The interface can read loyalty program data from a loyalty program instrument. A loyalty program session may be initiated and terminated in response to a number of conditions. (§0187).

Applicants' Claimed Invention Would Not Have Been Obvious

The following factual inquiries must be considered in any obviousness evaluation: the scope and content of the prior art, the differences between the claimed invention and the prior art, the level of ordinary skill in the pertinent art and any evidence of secondary considerations. To establish a *prima facie* case of obviousness, it is axiomatic that the prior art, either alone or in combination, must disclose each and every element of the claimed invention. As stated in the M.P.E.P., “[t]o reject a claim. . . . Office personnel must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.” M.P.E.P. §2143A.

Moreover, “[t]he rationale to support a conclusion that the claim would have been obvious is that all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art.” *Id.* Also, some articulated reasoning with rational underpinnings must be provided to support a *prima facie* case of obviousness.

It is respectfully submitted that the pending claims would not have been obvious in view of Brosnan et al., Garahi et al. and Kaminkow et al., either alone or in combination with other references.

Claim 1 is directed to a gaming network including a plurality secure wireless servers structured to couple to one or more information servers. The secure wireless servers are

distributed around a gaming floor in which gaming machines are available for play. The gaming network further includes a portable secure wireless receiver structured to couple via a wireless link to at least one of the secure wireless servers based on the proximity of the secure wireless receiver to the at least one secure wireless server and to create a secure data channel between that secure wireless server and the secure wireless receiver. Additionally, the at least one secure wireless server is structured to create a session with the secure wireless receiver only at certain times. The at least one secure wireless server is also structured to terminate the session if the secure wireless receiver is not used for a predetermined period of time.

Claim 5 calls for a system for redeeming tickets. The system includes a plurality of secure wireless servers structured to couple to one or more information servers. The secure wireless servers are distributed around a gaming floor in which at least one gaming machine is located. The system further includes a portable secure wireless receiver, other than the one or more information servers, structured to couple via a wireless link to at least one of the secure wireless servers based on the proximity of the secure wireless receiver to the at least one secure wireless server and to create a secure data channel between the at least one secure wireless server and the secure wireless receiver. Additionally the at least one secure wireless server is structured to create a session with the secure wireless receiver only at certain times. The at least one secure wireless server is also structured to terminate the session if the secure wireless receiver is not used for a predetermined period of time.

It was said in the Office Action that the communication interfaces 52a-52c for the gaming machines 2a-2c correspond to secure wireless receivers. (Office Action ¶3). However, the amended claims specify that the secure wireless receiver is a portable device. As conceded in the Office Action, the communication interfaces 52a-52c are not portable. (Id.). Indeed, they are either mounted to a gaming machine, or they are located inside the cabinet or top box of a gaming machine. (Col. 14, lines 6-15; FIG. 1B).

To cure this deficiency, Garahi et al. is relied upon. Specifically, it was said that Garahi et al. discloses the use of a wireless device 18. (Office Action ¶3). The wireless device 18 may be a cellular telephone.

However, it is respectfully submitted that there is no suggestion or motivation in any of the references for replacing Brosnan et al.'s communication interfaces 52a-52c with cell phones. The communication interfaces 52a-52c are located inside the cabinet or top box of a gaming machine, or they are mounted to a gaming machine. They are also wired to the gaming machine. There is no reason to make these interfaces portable such that they may be carried from one gaming machine to another. Indeed, if such was the case, then as one communication interface is

moved between gaming machines, these gaming machines would be without a communication interface. This would defeat the very purpose of the Brosnan et al. system, that is, providing communication services for the gaming machines via the wired connection 54. (Col. 7, lines 4-14). Moreover, the fact that the communication interfaces 52a-52c are hardwired to the gaming machines clearly teaches away from the use of portable communication interfaces.

Additionally, replacing the communication interfaces 52a-52c of Brosnan et al. with the cell phone 18 of Garahi et al. would render the gaming machine network 50 of Brosnan et al. unsatisfactory for its intended purpose. That is, there would be no way for the cell phone 18 to communicate with the gaming machines 2a-2c, since they would not be hardwired to the gaming machines. As such, there would have been no suggestion or motivation to make the proposed modification M.P.E.P. 2143.01V. Thus, a *prima facie* case of obviousness has not been established.

Further, Brosnan et al. discloses that the network lines 57a-57c between the communication interfaces 52a-52c for the gaming machines 2a-2c may use a wireless scheme to connect to the network 60. The servers 71-74 of Brosnan et al. are also connected to the network 60 by the communication interfaces 52d-52g. The communication interfaces 52d-52g are connected to the servers 71-74 by a wired game service connection 54. (Col. 7, lines 4-6; Col. 8, lines 57-60; Col. 9, lines 19-23; FIG. 1A). The communication interfaces 52d-52g are, in turn, connected to the network 60 via an appropriate communication protocol. (Col. 6, lines 58-66). There is no disclosure that the interfaces 52d-52g are wirelessly connected to the network 60.

Nonetheless, in the Office Action, it was said that the communication interfaces 52d-52g are secure wireless devices. (Office Action ¶3.). Support for this conclusion was supposed to be found in Brosnan et al. “at column 10, lines 2-47”. (*Id.*). However, this disclosure only relates to the network lines 57a-57c for the gaming machine communication interfaces 52a-52c and not to the server communication interfaces 52d-52g. This follows from the fact that the arrows between the server communication interface 52d-52g and the network 60 are of a different type than the arrows between the gaming machine communication interfaces 52a-52c and the network 60. Additionally, the arrows between the server communication interfaces 52d-52g and the network 60 are not labeled with the references number 57. Also, this particular disclosure relates to “the process of reconfiguring a large number of gaming machines on a casino floor” and not to reconfiguring the servers 71-74. (Col. 9, lines 62-66). As such, there is no disclosure that the server communications interfaces 52d-52g are wireless devices.

Also, as conceded in the Office Action, the communication interfaces 52d-52g are not servers, and they are not distributed around a gaming floor in which gaming machines are

available for play. (Office Action ¶3). Rather, they provide data transmission services and hardware connectivity for each of the servers 71-74. (Col. 6, line 58 to Col. 7, line 3).

To cure the lack of disclosure of a wireless server, Garahi et al. is again relied upon. Garahi et al. discloses that the wagering data hub 12 includes the wireless server 116. (¶0042). The wireless server 116 enables the wireless device 18 and the hub 12 to communicate with each other. (¶¶0046, 0057). The wireless server 116 is part of a wireless wagering control system 26 of the hub 12. (¶0046). The wireless server 116 is located remotely from a racetrack 42. Data from the racetrack is provided to the hub 12 by a racing data provider 36 via communication links 72 and 78. (¶0041). A wager may be placed on a race using the wireless device 18 which, as noted, is in communication with the wagering hub 12 via the wireless server 116. As such, the wireless server 116 is “in range” of the wireless device 18.

However, the wireless server 116 is not distributed around a gaming floor in which gaming machines are available for play as called for, for example, by claim 1. Rather, the wireless device 18 is “in range” of the wireless server 116, and the wireless server 116 is centrally located at the hub 12 at some location remote from the area in which gaming occurs. (¶0008).

Similarly, the communication interfaces 52d-52g of Brosnan et al. are not located in an area of a casino, for example, in which gaming machines are available for play. Instead, the communication interfaces are located on the network 60 at a location remote from the gaming machines. (Col. 6, lines 47-61).

Thus, both the wireless server 116 of Garahi et al. and the communication interfaces 52d-52g of Brosnan et al. are not distributed around a gaming floor. As such, the cited combination of references does not include all the elements of Applicants’ claimed invention. M.P.E.P. 2143A. Thus, a *prima facie* case of obviousness has not been established.

The subject matter of a properly construed claim is the subject matter that must be examined. M.P.E.P. §2106 II. C. As such, “ ‘all words in a claim must be considered in judging the patentability of that claim against the prior art.’ ” M.P.E.P. §2143.03. The language of a claim cannot simply be ignored.

As noted, claim 1 specifies that the wireless servers are “distributed around a gaming floor in which gaming machines are available for play.” This claim feature was dismissed with an unsupported finding that it was “an obvious design choice.” (Office Action ¶3). However, as discussed, more is required to establish a *prima facie* case of obviousness. That is, to support a *prima facie* case of obviousness, the prior art, either alone or in combination, must disclose each and every element of the claimed invention. M.P.E.P. §2143A.

Furthermore, other claim features were not even considered in the Office Action. Again, claim 1, for example, calls for the wireless server being “structured to create a session with the secure wireless receiver only at certain times and wherein the...wireless server is structured to terminate the session if the secure wireless receiver is not used for a predetermined period of time.”

The Office Action fails to cite any reference that discloses or suggests these claim features. Indeed, like other claim features, the Office Action acknowledges that the cited references “are silent” as to these claim features. (Office Action ¶3). However, the Office Action offers no explanation as why such claim features would have been obvious. Therefore, the Office Action is not only incomplete in this regard, but it also fails to make out a *prima facie* case of obviousness.

As discussed, the wireless servers of Applicants’ claimed invention are located on the gaming floor. They are part of a hierarchical system which also includes one or more information servers and a portable secure wireless receiver. The wireless receiver establishes communication with a wireless server based on the proximity of the wireless receiver to a wireless server. Since a gaming floor may be covered with signals from more than one wireless server, this arrangement provides an efficient and economical communication scheme in the context of Applicants’ claimed invention. (See Applicants’ specification, page 7, lines 22-27). The cited references fail to disclose such a system.

It was said in the Office Action that this feature of Applicants’ claimed invention was disclosed by Kaminkow. (Office Action ¶3). However, Kaminkow does not disclose a portable secure wireless receiver structured to couple to a secure wireless server based on the proximity of the secure wireless receiver to the secure wireless server.

Rather, in Kaminkow, wireless gaming devices, such as cell phones, wirelessly communicate with gaming machines, and a location server determines which of the wireless gaming devices is closest to a selected location. The selected location may be directly in front of a gaming machine. (¶0038). A cell phone in Kaminkow is selected, by the location server, based on its location in a casino vis-a-vis the location of a gaming machine, and this selection is not based on the cell phone’s proximity to a secure wireless server such as Kaminkow’s wireless access point which is used to initiate a loyalty program session. (¶0038).

As such, the combination of Brosnan et al., Garahi et al. and Kaminokow et al. would not have resulted in Applicants’ claimed invention.

Further, no reference has been cited to establish that secure communications within the context of Applicants’ claimed invention would have been obvious. (Office Action ¶3). Also,

no support has been provided for the argument that the “use of multiple servers is a well known feature”. (Id.). Suitable evidence to establish a prima facie case of obviousness, if available, must be provided. M.P.E.P. § 2144.03.

Thus, for at least these additional reasons, the pending claims would not have been obvious in view of the cited references.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims are now in condition for allowance. Accordingly, allowance of the claims at the earliest possible date is requested.

If prosecution of this application can be assisted by telephone, the Examiner is requested to call Applicants’ undersigned attorney at (510) 663-1100.

If any fees are due in connection with the filing of this amendment (including any fees due for an extension of time), such fees may be charged to Deposit Account No. 504480 (Order No. IGT1P304).

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